48th Annual Report

MOTOR CARRIER COMMISSION

PROVINCE OF BRITISH COLUMBIA

88-05966/

48th Annual Report
Covering the Licence-year Ended
February 29, 1988

Annual Report of the
Motor Carrier Commission

Pursuant to Section 34
of the Motor Carrier Act

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VANCOUVER, BRITISH COLUMBIA

To His Honour the Lieutenant Governor in Council
of the Province of British Columbia

MAY IT PLEASE YOUR HONOUR:

SIR: We respectfully transmit herewith the Forty-eighth Annual Report, pursuant to the provisions of section 34 of the *Motor Carrier Act*, covering the licence-year ended February 29, 1988.

MOTOR CARRIER COMMISSION

GERARD M. MORRIS, *Acting Chairman*

IAN W. CRAIG, *Commissioner*

GEORGE MUSSALLEM, *Commissioner*

REPORT OF THE MOTOR CARRIER COMMISSION, 1987/88

GENERAL

The present members of the Motor Carrier Commission, who are appointed under Section 31 (1) of the *Motor Carrier Act*, are Acting Chairman G. M. Morris, Commissioner I. W. Craig, and Commissioner G. Mussallem.

The Commission derives its authority to regulate motor carriers in British Columbia from a provincial statute, the *Motor Carrier Act*, and under delegation from the Government of Canada, pursuant to the *Motor Vehicle Transport Act*, 1987.

It is the duty of the Commission to regulate motor carriers with the objects of promoting adequate and efficient service and reasonable and just charges for it, and of promoting safety on the public highways, and of fostering sound economic conditions in the transportation business of the province, and the Commission may make investigations, inquiries, regulations and orders it thinks necessary for the carrying out of those objects.

LEGISLATIVE CHANGES

A number of significant legislative changes took place during the licence year being reported on, both provincial and federal, which impact on the manner in which motor carriers are regulated in British Columbia, as well as in the rest of Canada.

Federal

On the federal scene, the *Motor Vehicle Transport Act*, 1987, and Regulations attached thereto, came into effect on January 1, 1988. This legislation, which governs the treatment by the Motor Carrier Commission of applications for extra-provincial licence authority, replaces the hitherto applied "public convenience and necessity" tests with a "reverse onus" public interest test.

The reverse onus public interest test is seen as an interim measure designed to allow limited economic regulatory intervention in the entry process until January 1, 1993, when that test may, after review, expire, and be replaced with a "fitness" test which would then become the sole standard for licensing extra-provincial truck undertakings.

Provincial

In this province, the *Motor Carrier Amendment Act*, 1987, was given Royal Assent on July 16, 1987.

This legislation provided for the introduction of full fleet licensing under which a single licence is issued to a carrier specifying the total number of vehicles which may be operated. The appropriate number of licence plates, standard certificates and Conditions of Licence are then issued. These may be transferred by the carrier among its vehicles or to new vehicles without further reference to the Motor Carrier Branch.

Under the old system, a specific licence was issued to each vehicle operated which could not be affixed to any other vehicle. This involved considerably more detailed clerical work, both for the operator and for the Motor Carrier Branch.

The new legislation also requires the Commission to comply with any general directive of the Minister of Transportation and Highways with respect to the exercise of its powers and functions, also to hold hearings and conduct any investigations that the Minister, in writing, requests, and report to him on the Commission's findings.

In addition, the legislation provides that a ticket, summons, or other document served under the *Offence Act*, shall be deemed to have been served on the motor carrier if it has been served on the person alleged to have performed the act or admitted or failed to do something that resulted in an offence being committed.

Other changes include an increase in the penalties that may be imposed on carriers for infractions under the *Motor Carrier Act* and Regulations attached thereto, make provision to appoint employees as Peace Officers, and authorize the Commission to refuse to process a permit or application for specific reasons cited therein. A number of changes of a housekeeping nature were also included in this legislation.

APPLICATIONS

The total number of applications published by the Motor Carrier Branch during the 1987/88 licence year was 3,789. Of this number 1,465 were for additional vehicles and 2,327 were for new authority, additional authority, or for transfers, which generally required further investigation before being submitted to the Motor Carrier Commission for adjudication.

HEARINGS

The Commission conducted a total of 82 hearings, a record number, during the 1987/88 licence year. This total includes 35 public hearings of applications for licence authority, 41 reviews of previous decisions, and 6 Show Cause hearings. The majority of the hearings were held in Burnaby, B.C., but some were also scheduled throughout the Province, including Salmon Arm, Golden, Chetwynd, Prince George, Terrace, Davis Bay, Kamloops, Penticton, Nanaimo, Qualicum and Victoria.

Some of the more important decisions, findings and Orders of the Commission are contained in Appendix "B" of this Report.

REVISED FEE SCHEDULE

During the 1987/88 licence year, substantial revisions were made to the fee schedule applicable to licences, permits, copying, clerical and various other services provided by the Motor Carrier Branch. Also introduced for the first time was a new licence application administration fee. The new Fee Schedule, revised for the first time in some 16 years, was approved by Order in Council dated September 10, 1987.

REVENUE

(a) The statement of revenue derived from permit and licence fees paid during the 1987/88 licence year and from other sources indicates a total of $2,841,293, which was paid into general revenue. This amount is $1,405,934 more than, or almost double, the total generated in the previous year.

(b) Statistics on revenue, the number of permits issued, and a comparision of types of licences issued, are presented in Appendix "A" attached hereto.

(c) There was a substantial decrease in the number of charges for infractions of the *Motor Carrier Act* and Regulations laid by weighscale personnel (24.2%). Revenues from fines did increase to $643,575.

STATEMENT OF MECHANICAL CERTIFICATION OF VEHICLES

The Commission, as in the past two years, required successful applicants for motor carrier authority, either temporary or permanent, before being issued such authority, to file a statement certifying that vehicles intended to be utilized are in safe operating condition. This requirement has had a desirable effect in that it makes motor carriers more aware of their responsibilities insofar as public safety is concerned.

MOTOR CARRIER BRANCH COMPLIANCE DEPARTMENT ACTIVITIES

The activities of the compliance department of the Motor Carrier Branch include enforcement through participation in "road checks" with various other agencies, investigation of complaints, and random audits of the activities of licensed motor carriers. The compliance department also provides training materials and assists in training of members of other enforcement agencies in motor carrier enforcement.

The department participated with other enforcement agencies in a number of road checks in which approximately 5,036 vehicles, including buses and taxis, were examined for roadworthiness, proper licensing, and correct documentation. As a result of those road checks, 132 charges were laid for infractions of various provisions of the *Motor Carrier Act* or Regulations.

During the 1987 licence year, a total of 202 complaint files were established by the compliance department and the complaints investigated.

TARIFF AND TIME SCHEDULES

Motor carriers licensed under the *Motor Carrier Act* are required to file rate schedules with the Commission and to abide by those rates in assessing charges for services provided. Time schedules and changes thereto must also be filed with and approved by the Commission in the case of licensed carriers operating over fixed routes on a time schedule.

The Commission does not regulate extra-provincial or international rates or schedules, although the authority to do so is delegated under the *Motor Vehicle Transport Act* of Canada (1987).

The following table sets out the number of tariff and time schedule applications filed during the current licence year compared to previous years. (Figures indicate applications filed during the licence year ending the month of February for each year specified).

	1984	1985	1986	1987	1988
Rate	336	278	272	172	216
Time	21	44	34	28	14

APPENDIX A

SUMMARY OF TOTAL REVENUE FOR THE LICENCE-YEAR 1987/88

	$
Licence fees	2,629,873
Filing fees	139,160
Temporary permits	58,545
Miscellaneous	13,715
	2,841,293

REVENUE—ANNUAL COMPARISONS

The following is a comparative table of gross revenue for the last four licence years:

Kind of Licence	1984/85	1985/86	1986/87	1987/88
	$	$	$	$
Passenger (buses)	145,278	165,686	164,480	236,957
Passenger (taxis)	125,279	147,517	147,922	157,984
Public and limited freight	900,291	981,984	1,071,027	2,234,932
Permits	17,703	28,769	29,414	58,545
Miscellaneous (including filing fees)	72,627	19,912*	22,516*	152,875
Totals	1,261,178	1,343,868	1,435,359	2,841,293**

* The reductions in miscellaneous revenue are the result of changes in accounting procedures recommended by the auditors, which more accurately identify revenue from all sources.

** The increase in revenue is due in great part to revisions to the fee schedule.

TEMPORARY PERMITS

Permits grant temporary exemption from the *Motor Carrier Act* of the necessity of obtaining a licence (operating authority) or alteration of licence, with respect to the operation of a vehicle in the manner stated therein. The holder of a temporary permit is subject to the safety provisions of the *Motor Carrier Act* and Regulations to the same extent as if he were operating a licensed vehicle. The issuance of permits is at the discretion of the Commission and allows for immediate response to be made to the requirements of trade and industry or the general public.

The following is a summary of the number of temporary permits issued during the year 1987/88:

Class II permits (for temporary operation as a public or limited vehicle not exceeding 92 days)	6,899
Class III and Class IV permits (for operation of a licensed public or a limited vehicle temporarily in a manner other than is authorized by the licence, or pending consideration of an application for licence, renewal, alteration, or transfer of a licence, etc.)	15,100
Special temporary permits (issued for the transportation of household goods to carriers from provinces having reciprocity agreements with the Province of British Columbia respecting commercial motor vehicle licences)	138
Total	22,137

NUMBER OF LICENCES — ANNUAL COMPARISONS

The following table, by licence years, gives the number of licences for the various classes issued:

Kind of Licence	Number of Licences, New and Renewed			
	1984/85	1985/86	1986/87	1987/88
Passenger (buses)	2,191	2,131	2,095	1,915
Passenger (taxis)	2,228	2,284	2,270	1,991
Public freight	27,036	27,336	29,013	31,140
Limited freight	3,088	3,138	3,957	3,042
Totals	34,543	34,889	37,335	38,088

APPENDIX B

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

26-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of a Review by the Motor Carrier Commission of its decisions concerning the following applications: (a) Twin Valley Transport Ltd., No. 2858/86; (b) 194762 B.C. Ltd., No. 316/86; (c) Thideman Logging Ltd., No. 26/86; (d) Ross Martin, No. 1064/86; (e) Shane Allan Thorlakson, No. 1370/86; (f) Chuck Sales, No. 1466/86; (g) Lawrence Thibault, No. 1467/86; (h) Joe Lilienweiss, No. 2456/85; (i) Los Montes Holdings Ltd., No. 2783/85; (j) Big Country Contracting Ltd., No. 47/86; (k) Agra Feeds Ltd., No. 1393/86; (l) Christian Ronald Helgason, No. 2961/86; (m) Leonard Edgar Botkin, No. 1481/86; (n) Mark Coumont, No. 666/86.

Before: GERARD M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner.*

Dated the 9th day of April 1987.

ORDER

The applications identified above, all of which had been refused previously, came before the Motor Carrier Commission for review in Prince George, B.C., on March 24, 1987.

Applicants Christian Ronald Helgason and Mark Coumont did not attend and were not represented at the hearing. Applicant Ross Martin was represented by Counsel, Mr. M. J. Brecknell, who called one witness, Mr. Frank Drouger of the Central Interior Logging Association, who read a prepared brief into the record, a copy of which was filed as an exhibit at these proceedings. The eleven other applicants were represented either by the owners, their friends, or company officials, each of whom made an oral presentation, and in some cases filed additional letters of support.

The applicants have all been engaged to some extent in the log hauling industry in Licence District No. 12. Each is seeking either a new licence authority, or to have additional vehicles licensed. Some of the applicants have a long history in the industry, having worked for someone, or operated during the peak season on their own under Temporary Operating Permits, or have had permanent authority for one vehicle and wished to have an additional vehicle licensed. Some own or operate a number of licensed vehicles, others have none, but desire to have their own vehicle licensed instead of working for someone else.

Objectors to the applications, eight or nine in total, were represented by three spokesmen, who questioned the applicants individually after each representation, testified afterwards as to their own position with respect to the applications, and answered questions put to them by the applicants or by the Commission.

The objectors generally expressed the view that there were too many vehicles licensed at the present time, and that no more licences should be issued either by way of new authority, or for additional vehicles. They took the position that during the peak winter months Temporary Operating Permits could be issued to fill the need, and maintained that many of the vehicles licensed sit idle during the summer months, which are generally slow, so no licences should be issued, particularly at this time of year when roads are most difficult to travel and the demand curve has flattened out.

Some discussion took place during the course of the hearing with respect to the effects of the bug kill, the extent of the forest that is being logged at the present time, the prospects of relief from further bug kills, the longer hauls being undertaken to procure a supply of wood, the long-range effects on truckers and trucking of larger vehicles which transport greater loads, and the perplexing question of how many vehicles are required to haul the available logs.

The Commission, after considering carefully all that was brought out at the hearing, and after further investigations carried out subsequently with respect to wood supply and related matters, and before making a decision in this matter, makes the following observations:

1. Extreme care must be exercised in licensing in order to maintain stability and equity within this highly specialized industry;
2. For the next several years no major change is expected in the availability of logs, including bug kill timber;
3. Hauling distances or hauling times are not expected to make a significant change to overall transportation patterns, operations and requirements;
4. Although market conditions can never be fully pre-determined, stability of price and demand until the end of this decade is anticipated;
5. Matters such as frequency, duration and seasonality of Temporary Operating Permits issued, the availability of summer and winter work, ability to obtain contract work, and assured mill seniority positions are key factors in licensing decisions.

In arriving at decisions with respect to the various applications under consideration, the Commission has carefully reviewed the individual applicant files in light of the representations made at the hearing, and has taken into account all of the information presented.

Based on the evidence before it, the Commission orders that:

(a) its previous decisions with respect to the applications of Christian Ronald Helgason and Mark Coumont, published respectively as Nos. 2961/86 and 666/86, which were refused, be and they are hereby *confirmed;*

(b) its previous decisions with respect to the applications of Twin Valley Transport Ltd., Los Montes Holdings Ltd., 194762 B.C. Ltd., Thideman Logging Ltd., Ross Martin, and Shane Allan Thorlakson, published respectively as Nos. 2858/86, 2783/85, 316/86, 26/86, 1064/86, and 1370/86, which were refused, be and they are hereby *confirmed;*

(c) its previous decisions with respect to the applications of Chuck Sales, Lawrence Thibault (now transferred to Thibault Trucking Ltd.), Joe Lilienweiss, Big Country Contracting Ltd., Agra Feeds Ltd., and Leonard Edgar Botkin, published respectively as Nos. 1466/86, 1467/86, 2456/85, 47/86, 1393/86 and 1481/86, which were refused, be and they are hereby *rescinded.*

It is further ordered that:

(a) the applicant Chuck Sales be and he is hereby granted one additi al Limited Freight Vehicle Licence to haul logs (in the standard wording), but *under contract only* for Marlow Logging Ltd.;

(b) the applicant Joe Lilienweiss be and he is hereby granted one additional Limited Freight Vehicle Licence to haul logs (in the standard wording), but *under contract only* for Musselman Logging Ltd.;

(c) the applicant Lawrence Thibault (now transferred to Thibault Trucking Ltd.) be and he is hereby granted one additional Class III Public Freight Vehicle Licence to haul logs in the manner applied for;

(d) the applicants Agra Feeds Ltd., Big Country Contracting Ltd., and Leonard Edgar Botkin are each granted one new Class III Public Freight Vehicle Licence to haul logs in the manner applied for.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

36-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of competing applications for Motor Carrier Licence Authority of (a) Blue Wave Taxi Service Inc., Published as No. 2524/86; and (b) Robert Stuart Campbell, Published as No. 2526/86.

Before: G. M. MORRIS, *Chairman* and GEORGE MUSSALLEM, *Commissioner.*

Dated the 8th day of May 1987.

ORDER

The competing applications of Blue Wave Taxi Service Inc. (Blue Wave), published as No. 2524/86 and Robert Stuart Campbell (Campbell), published as No. 2526/86, to provide a taxi service in that portion of Licence District No. 13 lying south of Earl's Cove, B.C., came before the Motor Carrier Commission at Davis Bay on April 30, 1987 for hearing. The hearing was completed on May 1, 1987.

Blue Wave was represented by Counsel, Mr. Paul Sabatino, and Mr. Robert Stuart Campbell represented himself. The qualified objector, Gordon Mullins d/b/a Coast Taxi (Coast), was represented by Counsel, Mr. R. W. Macdonald.

Counsel for Blue Wave had filed some ninety-four letters of support with the application prior to the hearing, which were supplemented at the hearing with additional support material and data related to the application. Fourteen witnesses were presented, including the wife of the principal of the applicant company, whose husband was in the hospital at the time of the hearing; the general manager designate, former employees of Coast, users of the present taxi service, and supporters of the application.

Mr. Campbell had also filed support material prior to the hearing, which material included some thirteen letters, together with an outline of his proposed operational plan. In addition, he called five witnesses, including three former employees of Coast and two supporters. He also testified on his own behalf.

Mr. Macdonald called one witness in the person of Mr. G. O. Mullins, the operator of the taxi service in this area for approximately six years.

Mrs. Landsborough, appearing in support of the application of Blue Wave, testified that her husband, who had considerable taxi experience, both as a driver and as an owner of the taxi business in Alberta was to be the financial backer and general manager, but was to be assisted by Mr. R. Harris, the operation manager designate, a local resident. The proposed service was to include the operation of new vehicles, meter

equipped, driven by uniformly dressed drivers and would provide a prompt service to the entire area. Based on her husband's experience of the taxi business, both as a driver, and as a business man, she was confident that the operation of a taxi service, while difficult, would be economically feasible.

Mr. Campbell testified that he was to be backed financially by a local resident, who unfortunately was unable to be present to give evidence. Neither Mr. Campbell, nor his proposed backer had any taxi experience, but he felt that he could operate a fleet of three taxis on a twenty-four hour basis, and in time could expand the number of taxis to five.

A number of the applicant's witnesses, in particular those formerly employed by Coast, alleged that the vehicles utilized were in poor condition, both mechanically and in appearance, that there was a lack of service due to too few cabs being employed and/or very slow response time for that same reason. It was alleged, as well, that it was a common practice to disregard the charter fare requirement and to charge each customer individual fares.

Those allegations were denied by Mr. Mullins, who insisted that his vehicles were in good condition, were inspected regularly, and that no passengers or drivers had ever been injured while in his cabs. He maintained that the average response time was actually ten minutes, which indicated excellent service. He admitted that he was aware of the fare problem and was doing his best to stamp out the practice. He testified that some of his former employees had conspired against him and he had been forced to discharge several for disclosing confidential information to unauthorized persons.

Mr. Mullins explained in his further testimony the many difficulties experienced in operating a taxi service on the Sunshine Coast, which included some 385 miles of paved road and 80 miles of gravel road. He said that the area had been greatly depressed for some time, and that fuel, parts and repair services were very expensive. He had not drawn any salary out of the taxi business for some time, and he noted that he had to invest more money to keep the operation going. He was trying to sell the business, he said, but had been unsuccessful in doing so.

The Commission, after carefully considering all of the evidence and summaries presented at the hearing, and after scrutinizing the exhibits, in particular the support material filed, makes the following Findings of Fact:

1. The Commission detects a strong mood of dissatisfaction with the taxi service operated by the present licence holder, Mr. Mullins.
2. The Commission recognizes that the operation of a taxi business in this particular area is most difficult.
3. The Commission feels, however, that despite those difficulties, the area is entitled to a quality of service not available at the present time.
4. No compelling evidence was presented to justify the granting of 8 additional taxi cab licenses.
5. Blue Wave presented a strong case based on adequate financing, related experience, and a good volume of support.
6. Mr. Campbell failed to present a strong case, did not substantiate his claim of financial backing, was entirely lacking in related experience, and did not present a good volume of support.

Accordingly, the Motor Carrier Commission orders that

(a) the application of Blue Wave Taxi Service Inc., published as No. 2524/86, be and it is hereby partially granted to operate four (4) Limited Passenger Vehicles.

(b) the application of Robert Stuart Campbell, published as No. 2526/86, be and it is hereby *refused*.

It is further ordered that the two applicants and the sole objector present be and they are hereby each assessed fifty ($50) dollars in costs to be set off against the security deposits filed by them beforehand.

Approved by:

G. M. MORRIS
Chairman

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

52-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Competing Applications for Motor Carrier Licence Authority of (a) A & E Charter Bus Service Ltd., Published as No. 1848/86; and (b) Al-Rae Holdings Ltd., Published as No. 1993/86.

Before: IAN W. CRAIG, *Commissioner.*

Dated the 24th day of June 1987.

ORDER

The competing applications of A & E Charter Bus Service Ltd. (A & E), published as No. 1848/86 and Al-Rae Holdings Ltd. (Al-Rae), published as No. 1993/86 to provide a charter trip bus service from Quesnel and points within thirty-five road miles of the boundaries thereof to any point in B.C. or to any boundary thereof, and return if arranged for on the same charter, came before the Motor Carrier Commission for hearing in Quesnel, B.C. on June 16, 1987.

"A & E" was represented by its two principals, Messrs. R. E. McDonald and A. T. Preston, "Al-Rae" by its president Mr. W. Fowler, and the sole objector present, Harmonic Investments Ltd., by a transport adviser, Mr. K. A. Martin, CITT.

Besides filing letters of support "A & E" presented as witnesses its two principals who testified about their long experience in the transportation of passengers, and their plans for the business if the application were to be granted. Two other witnesses were called, one of which was the Secretary to the Wells-Barkerville Chamber of Commerce, and Mr. A. DeGroo, a consultant to the hotel industry, both of whom agreed that they supported not only this particular applicant, but any applicant who might in time transport more tour package customers or tourists into the general Wells-Barkerville area.

Mr. Fowler filed letters of support, as well, and testified on behalf of "Al-Rae", indicating that he had strong connections with many sports organizations, had arranged for their transportation needs in the past, and felt that there was enough business in the Quesnel area, of which he is a resident, to support the services of a highway coach. He noted that he had considerable experience as a motor carrier, and always maintained his freight vehicles to a high standard of mechanical fitness.

The objector "Harmonic", which operates two eleven-passenger vehicles in the Quesnel area, provides a charter service in addition to a weekly scheduled public passenger service to Barkerville, which is not very heavily patronized. Mr. Quechuck, the owner of "Harmonic" indicated in his testimony that there had been very little demand for the services of a highway coach in Quesnel, but he could obtain one if required, which however, would have to be dead-headed in from either Prince George or Williams Lake at additional cost.

In summation on behalf of the objector, Mr. Martin asked that the applications under consideration be refused, but indicated that there would be no opposition from his client provided that the service licensed by the Commission was limited to the use of a highway coach which would accommodate thirty-nine passengers or more.

Both applicants, in their summations, expressed the view that there was enough demand for service to have a highway coach stationed and operated out of the Quesnel area, and each applicant, understandably, asked that their particular application be favoured.

The Commission, after carefully considering all of the information before it, makes the following Findings of Fact:

1. The service sought to be licensed by the two applications under consideration appears to be best suited to the use of a large highway coach;
2. No evidence was presented by either applicant to support a service to any boundary of B.C. as part of an extra-provincial undertaking;
3. There appears to be sufficient demand to support one highway coach in Quesnel provided that the service is operated in an aggressive, organized manner.
4. At the present time there is clearly not enough business in the Quesnel area to support two competing highway coach services.

The fact that "A & E" filed its application earlier; its principals have considerable related experience in the passenger field; and that its principals enlisted the support of the Wells-Barkerville Chamber of Commerce and a hotel consultant involved in arranging group tours into that tourist attraction area weighs the decision scales in favour of that applicant.

Accordingly, the Motor Carrier Commission orders that:

(a) the application of Al-Rae Holdings Ltd., published as No. 1993/86 be and it is hereby *refused*;

(b) the application of A & E Charter Bus Service Ltd., published as No. 1848/86, be and it is hereby *refused as filed*;

(c) the applicant, A & E Charter Bus Service Ltd. be and it is hereby granted one new limited passenger vehicle licence, subject to compliance with the usual mandatory pre-licensing requirements, to be operated in the following manner:

Terminal point from which vehicle may be operated — Quesnel, B.C.

Service that may be rendered — Charter trips only transporting a person or a group of people from Quesnel and points within thirty-five (35) road miles (56.325 km) of the boundaries thereof to any point in B.C. and return if arranged for on the same charter.

Restriction:

The service under this authority must be provided by a bus having the capacity of transporting thirty-nine (39) passengers or more.

It is further ordered that the two applicants in these proceedings be and they are each assessed costs in the amount of fifty dollars ($50), and the objector at these proceedings costs in the amount of one hundred dollars ($100), all to be set off against the security deposits filed by them beforehand.

Approved by:
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

56-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of Applications Nos. 3045/86 and 3578/86 of Comox Valley Distribution Ltd.

Before: G. M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner*, and GEORGE MUSSALLEM, *Commissioner*.

Dated the 25th day of June 1987.

ORDER

The applications of Comox Valley Distribution Ltd. (the applicant), published as Nos. 3045/86 and 3578/86, came before the Motor Carrier Commission for hearing in Courtenay, B.C. on June 8, 1987. The hearing was completed after two full days on June 9, 1987.

The applicant was represented by Counsel, Mr. L. R. Peterson, Q.C., who was assisted by Counsel, Mr. Jim Coady. The qualified objectors: Canadian Freightways Ltd., C.P. Express & Transport Ltd., and Public Freightways Ltd. were represented by Counsel, Mr. T. Robbins; Van-Kam Freightways Ltd. by Counsel, Mr. R. W. Macdonald and/or Mr. R. Carmichael, a company official; and Haida Transport Ltd. by Mr. L. Devuyst, a company official.

Mr. Peterson, in presenting the case for the applicant, called a total of thirteen witnesses, twelve of them shippers of freight, and the other, a corporate witness, Mr. John Halverson, president of the applicant company. In addition, further support material was filed at the hearing, including thirty-three letters of support, equipment lists, a number of responses to questionnaires, proposed schedules of service, other related material, and on a confidential basis, the applicant's financial statements.

The shipper witnesses generally expressed their satisfaction with the services provided to them by the applicant at the present time, and indicated their support for the applications under consideration. The type of service operated was described in complimentary terms by the witnesses, such as excellent, highly satisfactory and flexible. Several witnesses stated that not only were the applicant's rates generally lower than those of the objectors, the service in most cases was better.

Mr. Halverson testified as to the growth and success of the applicant company, due in part to the establishment of an overnight service to the Comox area from the mainland and vice versa. He outlined the manner of operation of this service, the training and dedication of his staff with whom he said he had an excellent relationship, which resulted in a very low turn-over of employees and/or lease operators. He and his staff tried to determine the customer's needs and fullfill those needs to the best of their ability. The demand for more service in new areas by his customers was the primary reason for the applications.

The five qualified objectors called four witnesses, all being company officials. They generally each described the services their companies offered, the facilities and equipment maintained, and their willingness and ability to provide the additional services required. Those which provide Class I scheduled service noted that they were obligated to provide that service at all times even when no freight was tendered, and expressed the fear that if further freight was diverted from them, their scheduled service might have to be reduced or even discontinued entirely in some cases.

The objectors, in summation, asked that the applications be refused as sufficient public need had not been demonstrated, but if they were to be granted fully, or in part, some restrictions ought to be attached based on the various statements and clarifications put forward by those concerned with the applications whether pro or con.

Counsel for the applicant, in final summation, argued that the applicant was providing an excellent service, and was only trying to meet the growing demand from his customers for more of that type of service. Mr. Peterson asked that the Commission carefully peruse all of the material submitted as exhibits, and based on the total evidence presented at the hearing, grant the applications as filed, but with appropriate restrictions or limits if that is felt to be necessary.

The Commission is of the view that the applicant has made a reasonably strong case and after considering all of the evidence presented at the hearing, and taking into account the applicant's growth and acceptance over the last few years, has concluded that the licence authority of Comox Valley Distribution Ltd. ought to be significantly amended.

The Motor Carrier Commission orders therefore, that

1. the portion of Application No. 3045/86 seeking to change the Courtenay terminus definition to the City of Courtenay, B.C. and the territory of Vancouver Island lying within fifty (50) *miles* (144.836 km) from the boundaries of Courtenay, B.C. be and it is hereby *granted* with the addition thereto of Quadra Island, but excluding therefrom Buttle Lake, Gold River and Port Alberni;

Accordingly, the existing Courtenay terminus definition contained in Part I of the Conditions of Licence issued to and in the name of Comox Valley Distribution Ltd. is to be amended so as to give effect to this decision of the Commission as is Clause No. 1 (a), Part 2 of the same Conditions of Licence thus permitting service from point to point within the newly enlarged Courtenay terminus;

2. the portion of Application No. 3045/86 seeking authority to provide an LTL general freight service from the newly enlarged Courtenay terminus to all points on Vancouver Island be and it is hereby *refused as filed*, but the applicant is granted an addition to Part II of its existing licence authority of the following new clause:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, District or Territory:*
Fertilizer, potatoes and turf. (Charter trips)	For one individual or company only at any one time.	From the Courtenay terminus (as defined in the termini definition Part 1) to any point on Vancouver Island.

With respect to that portion of Application No. 3578/86 seeking authority to provide a service for named shippers Continental Explosives Ltd. and Conmat Construction Materials Ltd. that authority is not now required in view of the amendments made herein, and is accordingly, *refused*. However, the three clauses below are *granted* in the form following, subject to the filing of satisfactory contracts:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, District or Territory:*
(a) Steel and aluminum. (Charter trips)	A.J. Forsyth & Co. Ltd.	From the Courtenay Terminus (as defined in the termini definition in Part 1) to any point on Vancouver Island.
(b) Metal products, building products. (Charter trips)	Brensco Industries Ltd.	From the Courtenay Terminus (as defined in the termini definition in Part 1) to any point on Vancouver Island.
(c) Scrap Metal, metal. (Charter trips)	North Island Salvage Ltd.	From the Courtenay Terminus (as defined in the termini definition in Part 1) to any point on Vancouver Island; or vice versa.

It is further ordered that the applicant and each of the five objectors, who participated in the hearing, be and they are hereby assessed fifty dollars ($50) in costs to be set off against the security deposits filed by them beforehand.

Approved by:

G. M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

63-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the Application of Terry G. Elliott D/B/A Cordova Bay Freight Service, published as No. 3690/86.

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 4th day of August, 1987.

ORDER

The application of Terry G. Elliott d/b/a/ Cordova Bay Freight Service (the applicant), published as No. 3690/86, came before the Motor Carrier Commission at a joint hearing in Victoria, B.C. on July 27, 1987.

The applicant was represented by its president, Mr. Terry Elliott. Two qualified objectors were represented as follows: CP Express and Transport Ltd. (CP) by a company official, Mr. B. N. Smith; Van-Kam Freightways Ltd. (Van-Kam) by Counsel, Mr. R. W. Macdonald.

Mr. Elliott called no witnesses, did not give evidence himself, and did not file any new evidence, except for two very weak letters of support. He did make an opening statement, in which he indicated that the primary reason for the application was because his firm could not interline freight to the northern part of Vancouver Island, except through competing carriers, who he feared might back-solicit his customers. He also questioned the corporate witness called by CP and offered some argument at the conclusion of the hearing.

Following a short recess, in order to give all the participants an opportunity to examine the exhibits filed, Mr. Macdonald made a formal "nonsuit" motion asking that the application be refused out-of-hand due to lack of evidence of public need.

Mr. Elliott responded to the "nonsuit" motion saying that although he had no or very little additional evidence the application ought to be granted. In replying to a question from the Acting Chairman, Commissioner Craig, Mr. Elliott admitted that he had not even reconfirmed, by telephone, the status of the 1984 and 1985 dated letters of support.

Following a further recess to consider the "nonsuit" motion, Mr. Craig resumed the hearing and denied the motion, but at the same time encouraged Mr. Elliott to present any evidence of need that he had available.

Mr. Elliott then made an additional statement, unsworn and not supported by documentary evidence, regarding an interline shipment which was delivered to the wrong address by Public Freightways Ltd., and consequently was considerably delayed. After delivering that statement he declared that his case was completed.

In summation, both objectors asked that the application be refused due to the lack of meaningful support, and noted that Mr. Elliott had been given every opportunity at the hearing to present a well supported case, but had failed to do so. Reference was made to previous hearings involving Mr. Elliott, who had called six witnesses at one hearing, two witnesses at the next, and finally at this hearing, no witnesses whatsoever.

Mr. Elliott, in summation, noted that unlike the objectors who generally served all of B.C., the applicant is an Island firm and family owned since 1911. He suggested that there would be no effect on the operations of the objectors if his application were to be granted. He said that he had brought witnesses to previous hearings, but that their business had been openly solicited at the hearing by other carriers. He concluded by saying that he felt the application ought to be granted so that he could accommodate the requirements, generally, of his existing customers.

It should be noted by all that one of the principal purposes of public hearings is to give the Commission an opportunity to assess existing public need for the service being applied for. Public need is best demonstrated, first, by witnesses who can give viva voce evidence that can be tested through cross-examination, and second, by the filing of meaningful current letters of support, which contain information as to the volumes of freight being moved and the frequency of service required.

Based on all of the information available to it, including that presented at the hearing, the Commission makes the following Findings of Fact:

1. Not one witness was called by the applicant in support of the application, nor did its principal officer, Mr. Elliott, although afforded the opportunity to do so, testify under oath at the hearing;
2. No evidence was offered by the applicant indicating that there was a lack of service, or that there were delays in service, or that there was inadequate service;
3. Mr. Elliott, at this hearing, did not substantiate by documentary evidence his comments regarding solicitation of business from "his" customers at previous hearings, or the matter of delays in one shipment by an interline carrier that he spoke of;
4. The age of the material filed brings into question its validity, as needs and support can change over the length of time involved, thus the material cannot be accepted as being evidence of current public need.

The Commission was most disappointed and surprised at Mr. Elliott's approach to and attitude at this public hearing. Mr. Elliott is an experienced and no doubt very able businessman, whose trucking operations over the years appear to have grown and prospered. He has had two of his previous applications tested by way of public hearing, and has attended at least one if not more other hearings as an observer.

He should realize, therefore, the necessity of presenting an adequate case at a hearing, which he clearly failed to do.

Although the Commission has some sympathy in this instance for a local Island carrier, it has a responsibility to the public, and pursuant to the *Motor Carrier Act* to regulate carriers largely on the basis of public need. The Commission can only observe that no evidence of public need was demonstrated, and because of that the application under consideration cannot in clear conscience be granted.

Accordingly, the Motor Carrier Commission orders that the application of Terry G. Elliott d/b/a Cordova Bay Freight Service, published as No. 3690/86, be and it is hereby *refused*.

It is further ordered that the applicant at these proceedings as well as the two qualified objectors be and they are each assessed fifty ($50) dollars in costs to be set off against the security deposits filed by them beforehand

Approved by
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commission

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

67-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Review by the Motor Carrier Commission of its decision concerning the Application of Silver Fox Coach Lines Ltd., published as No. 3563/86.

Before: GERARD M. MORRIS, *Chairman* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 21st day of August 1987.

ORDER

The application of Silver Fox Coach Lines Ltd. (the applicant), published as No. 3563/86, for five new Limited Passenger-vehicle Licences, which had been refused on May 14, 1987, came before the Motor Carrier Commission for review on August 6, 1987. The review hearing continued for a full two days with final argument being presented on August 10, 1987.

The applicant was seeking authority through the application to provide transportation for a person or group of people under contract to Hi-Way Holidays Inc. from points in Licence Districts No. 14, 14A and 15, as well as that portion of Vancouver Island south of, but including Nanaimo, B.C., to the boundaries of B.C. as part of an extra-provincial undertaking, and return if arranged for on the same charter, such service to be restricted to tours arranged by Hi-Way Holidays Inc.

The applicant was represented by Counsel, Mr. Paul Sabatino. Objectors present were represented as follows: Greyhound Lines of Canada Ltd. by Counsel, Mr. T. S. Robbins; International Stage Lines Inc. by Mr. R. McMynn; Vancouver Tours & Transit Ltd. by Mr. S. Eggen; Victoria Coach Lines Ltd. by Ms. P. Granoien; Cascade Charter Service Ltd. by Mr. R. Dubois; Horizon Coach Lines Ltd. by Mr. G. Bodnarchuk; Cantrail Coach Lines Ltd. by Mr. B. Hendricks; Chancellor Coach Lines Inc. by Mr. T. Pollard; Alpine Coach Lines Ltd. by Mr. P. Oldridge; and Perimeter Transportation Ltd. by Mr. G. Templeton.

During the course of the hearing, the Commission heard sworn testimony from six witnesses, as well as statements and summations from several others, including formal argument on August 10, 1987, by Counsel for Greyhound, Mr. T. Robbins, and for the applicant by Mr. P. Sabatino. In addition twenty-one exhibits were filed at the hearing and examined by the Commission, both at that time and subsequent to the hearing.

The applicant's case was presented through Mr. J. C. Bower, the principal of both Silver Fox Coach Lines Ltd. and Hi-way Holidays Inc. Throughout the hearing, the perceived needs of Hi-Way Holidays Inc. was the main focus of Mr. Bower's testimony, the burden of the case being that granting the application of Silver Fox Coach Lines Ltd. was essential if Hi-Way was to operate efficiently in providing a quality service.

During his testimony and under cross-examination, Mr. Bower spoke enthusiastically of his long experience and success as a tour operator. He also described the network of related companies he controlled through a holding company, and stated that he had sold these operations to a single buyer because of ill health, and testified that these companies were solvent at the time of sale. He also divulged that $300,000 of the sale price was not received directly, but diverted by the purchaser to retire obligations of some of the purchased companies.

Mr. Bower revealed that he remained with the operations under the new ownership in an advisory capacity until a short time before financial difficulties forced the closure of the tour company, which was a significant and important component of the group of companies. He also averred that his advice was not taken and he was not responsible for the financial direction of the group or its components.

Mr. Bower was not clear or positive as to his designation as a company employee or official. He believed his business cards stated "General Manager". Exhibits tendered later in the hearing list him as a vice-president of the umbrella company, Nine Star Holdings Ltd., and in another case, as vice-president and chief executive officer of Nine Star Holdings Ltd.

In support of his application, he outlined the nature and extent of his 1987 bookings for extra-provincial tours. These were mainly to Reno and California. In addition, frequent trips to the Anacortes area for bingo games were a regular service provided. Mr. Bower also mentioned many short day trips (principally for senior citizens) to nearby destinations.

He described the equipment under his control through an arrangement with Alpine Coach Lines Ltd.

Mr. Bower's testimony also included a number of complaints and problems arising from services supplied by, or available from, charter carriers, for example:

(a) On many occasions difficulty in obtaining suitable equipment;

(b) Drivers apparently not familiar with the area who missed his pick-up points;

(c) Drivers arriving at pick-up points too late;

(d) Back solicitation and unreasonable demands by drivers;

(e) Loss of contracts due to drivers' behaviour, poor service, and/or inferior equipment;

(f) Concern over the use of spareboard drivers or drivers having already driven a full shift on the same day, too many driver changes enroute, and resulting delays;

(g) Instability of pricing.

He outlined his desire to offer a quality service using coaches equipped with galleys, escort compartments (lockers), and, in some cases, drivers' sleeping accommodation.

Mr. Bower stated that a motor carrier licence was a prerequisite to purchasing new coaches on the financing arrangements he wanted.

A further indication of need was his claim that all other tour operators had a sister motor carrier operation.

Generally, the testimony of the objectors was that there was no need for a new company to provide the service outlined by Mr. Bower, and that they had adequate equipment in the area which could be supplemented by equipment from elsewhere during the peak season. Several testified that, given a firm contract, they could service all of the requirements of Hi-Way Holidays Inc. It was also pointed out that a great many tour companies operated without a sister company having motor carrier authority or, in fact, having any transportation facility, but depended entirely upon licensed carriers. It was noted, however, that there were a number of operators in Vancouver who did own a tour company and a bus company.

In some cases the testimony given by Mr. Bower was refuted directly by witnesses. Questions were raised as to the manner in which he operated coaches under an agreement with Alpine Coach Lines Ltd., the fares charged to certain passengers to bingo in the U.S., and the fact that suppliers of coaches, including one major carrier, had not been approached by Hi-Way Holidays Inc. even though coaches were available. In addition, certain exhibits were introduced by the objectors. One, in particular, which Mr. Bower admitted to typing, although he claimed not to be the sole author, was used by Mr. Bower on behalf of the operations he had sold when approaching a coach operator to discuss selling those operations. On that particular document, Mr. Bower was listed as a vice-president. There were also suggested valuations, including the value of a motor carrier licence authority which was completely at variance with earlier testimony given by Mr. Bower as to his appraisal or valuation of this particular licence. Other matters in the financial details were also questioned by some of the objectors.

In addition, the objectors commented on Mr. Bower's claim he would require a motor carrier licence to purchase buses from MCI or other coach manufacturers. One exhibit tendered was a letter from a senior official of MCI stating that a motor carrier licence was not a requirement for the purchase of a bus. However, there was no clear evidence in this particular respect as to what would be required under certain financial arrangements.

After considering all of the material in its possession, including all of the exhibits presented, the testimony given and the argument presented during the review hearing, the Commission finds the following facts:

1. The owner of the applicant, Silver Fox Coach Lines Ltd., is an experienced tour operator and, for a relatively short time, did own and operate Alpine Coach Lines Ltd.;
2. During his operations with Red Velvet Tours, for most of that period he did not have motor coach operations of his own or a sister company;
3. The applicant presented evidence that in 1987 he had booked and conducted a very substantial number of tours, including regular trips to Reno, local day tours, and a number of trips each week to bingo operations in the State of Washington;
4. These tours were conducted by using several motor coaches all owned by Hi-Way Holidays Inc. or sister companies, and operating under the authority of Alpine Coach Lines Ltd. (an unrelated company) and equipment chartered from licensed motor carriers;
5. The testimony of the applicant, Mr. Bower, by intention or otherwise, was indirect to the extent that at times it could be considered to be evasive and, certainly in a number of instances, was misleading and altered or clarified when challenged;
6. Mr. Bower's relationship to his former group of companies, particularly Red Velvet Tours, in view of some of the evidence presented and his comments on that evidence, was not accepted as credible by the Commission;
7. The applicant did not establish clearly and satisfactorily his ability to finance equipment that he claimed was necessary for the conduct of his business.

The Commission has concluded that at this time it would be in the public interest to confirm its previous decision.

Accordingly, the Motor Carrier Commission orders that its previous decision refusing Application No. 3563/86 of Silver Fox Coach Lines Ltd., be and it is hereby confirmed.

Approved by:

GERARD M. MORRIS
Chairman

GEORGE MUSSALLEM
Commission

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

77-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 3983/86 of Canadian Pacific Express & Transport Ltd.

Before: GEORGE MUSSALLEM, *Commissioner*.

Dated the 4th day of September 1987

ORDER

The application of Canadian Pacific Express & Transport Ltd. (the applicant), published as No. 3983/86, came before the Motor Carrier Commission for hearing in Burnaby, B.C., on August 11, 1987, and was completed on August 13, after three full days of hearing, with argument being presented on August 27, 1987.

The applicant is a national carrier which has extensive licence authority in British Columbia, both scheduled and non-scheduled. It is seeking through the application under consideration to add to Part II (the non-scheduled portion of its Conditions of Licence) the following new clause:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
General parcel freight (see restriction).	Any individual or company.	(a) Between points accessible by public highways within the Province of British Columbia; (b) From points in Licence District 21 to the B.C./Alberta border; and vice versa.

Restriction:

Service provided for pursuant to this clause is not to exceed a weight limit of 75 lbs. (34.02 kg) for each parcel being transported.

The applicant was represented at the hearing by Counsel, Mr. R. W. Macdonald. The objectors were represented as follows: Loomis Courier Service Ltd. by Counsel, Mr. D. LaCharite; Canadian Freightways Ltd. by Mr. A Panich, a company official; and Domke Distributors Ltd. by Mr. M. Morice, also a company official. Rocky Mountain Transport Ltd., which had filed its security deposit of $50 did not attend and was not represented at the hearing.

At the outset of the hearing, Mr. Macdonald filed as Exhibit No. 4 a Letter of Undertaking worded as follows:

> Re: Canadian Pacific Express & Transport (Canpar Division). 3983/86
>
> I am instructed to advise you that in respect to the authorities sought in application 3983/86, the Canpar Division of CPET undertakes and agrees as follows:
>
> "This clause is restricted to the exclusive use of Canpar Division of CPET only. Canpar Division of CPET does not intend to solicit or provide service to CPET under this clause, and undertakes to the B.C. Motor Carrier Commission that it will advise the Commission if any change of that policy occurs prior to its implementation."

By way of explanation, Canpar is an internal division of CP Express & Transport Ltd. CP Express & Transport Ltd. holds the motor carrier licence authority. Canpar specializes in the movement, generally overnight in this province, of small parcels of 75 lbs. or less.

In presenting the case for the applicant, Mr. Macdonald called 32 witnesses, 31 being shipper witnesses, and one, Mr. B. Hansen, regional manager of the Canpar Division for the western provinces, being the corporate witness. In addition, Counsel for the applicant filed a number of exhibits such as charts, research data, brochures and reports, as well as approximately 165 support letters over and above those originally submitted with the application.

In his brief opening address, Mr. Macdonald noted the impressive growth of the Canpar Division between the years of 1980, with revenues across Canada of 18 million dollars, and 1987, when revenues are projected to total 90 million dollars. He advised the Commission also that CP Express & Transport Ltd. has authority in eight other provinces, under which Canpar operates, similar to that being sought by way of this application in British Columbia.

Mr. Hansen, in his testimony, confirmed the information regarding Canpar's service to all points on public roads in the other provinces, and that the projected revenues of the division he heads should be 90 million dollars this year, which at the present time is right on target.

He went on to say that if the application were approved, five new terminals would be added within B.C. with probable locations for those terminals being Terrace, Powell River, Dawson Creek, Langley or Aldergrove, and Williams Lake or Quesnel. It would mean employment for 15 new drivers. This proposed expansion was documented in Exhibit No. 9 entitled "Proposed Operational Plan for B.C. Expansion".

He explained in his testimony that the marketing strategy was to offer an alternative to the Post Office, with slightly higher rates, but a more efficient and dependable service. Over 11,000 customers are served in Canada, 650 of them in B.C. He noted that most of the smaller businesses pay less than $1,000 per month in freight. In closing his testimony, he asked that the Commission approve the application.

The shipper witnesses called to support the application generally testified as to their past experience with the company and made known their needs for additional service to those points the applicant is not presently authorized to serve. They expressed their complete satisfaction with the service provided and the route pick-up system developed by the applicant, in which one of its trucks calls on a regular basis at the shipper's premises to pick up parcels (for a flat charge of $1 per day) at a time convenient for the shipper. This service, they said, saved them time. Parcels shipped by mail, for example, had to be taken to the Post Office, where the shipper then had to stand in line. This involved extra effort as well as loss of time away from the workplace.

A number of witnesses praised the service provided by the applicant, describing it in such complimentary terms as "excellent", "economical", "efficient", "reliable", and even "a sales tool".

Mr. LaCharite, in presenting the case for his client, Loomis, called one witness, that being Mr. D. Ross, one of their branch managers, who testified that his firm has some 540 employees in B.C. who work out of 15 terminals to provide an expedited courier type of service throughout the province. He described the manner of operations under which all parcels go through three sorting terminals from where, through a hub system, they are taken by line-haul trucks to the various branches for delivery by local P & D trucks. He ventured the opinion during his testimony that the applicant could not provide the service applied for and that it would be economic suicide to drive 480 miles to deliver one parcel to a remote location.

Under cross-examination, Mr. Ross could not recall if Loomis itself had the authority in other provinces to provide service to all points, but did not believe they had. He admitted, as well, that Loomis' rates were higher, but justified those higher rates by virtue of the fact that his firm provided a faster service than that proposed by the applicant.

Neither of the other two objectors called any witnesses, but all three participated in the cross-examination of witnesses, and each presented summation at the conclusion of the hearing.

Exhibit No. 15 filed by Counsel for the applicant at these proceedings contained *inter alia* a copy of Commission Order No. 54-84 dated July 20, 1984, which dealt with a previous application filed by the same applicant. The Findings of Fact contained therein, which are partially reprinted below, bear reference to at this time:

1. There is no question that the applicant, which holds extensive licence authority, is a fit carrier and is willing and able to provide the service proposed to be offered;
2. The applicant, through its Can-Par Division, has put together an attractive, efficient, well-regarded transportation service for smaller shipments or parcels.
3. The small parcel service proposed to be offered by the applicant is not at this time being provided in the same manner by any of the qualified objectors present at the hearing.
4. The type of service proposed to be offered by the applicant is strongly supported by those customers who have used Can-Par Division to and from the east, and services provided by other Divisions of CP Express and Transport Ltd., the applicant.
5. The applicant has demonstrated public need for additional service for small parcels of the type not carried by what is commonly referred to as courier service, i.e. time-sensitive materials.

The Commission granted the previous application, but with a 75 lb. weight restriction, which was in line with the authority held by the applicant in some other jurisdictions.

The findings above are as appropriate today as they were in 1984. It is as if nothing has changed except perhaps the number of customers being served and the total revenues generated by the applicant. The high level of customer satisfaction attested to by the shipper witnesses and the continued loyalty of those customers suggest most positively that an excellent service is being provided.

That service, together with the strong indication of public need and support, demonstrated through the sworn testimony of 32 witnesses, as well as the additional letters of support filed at the hearing, has convinced the Commission that the granting of the application is justified as well as being in the public interest.

The Commission has put considerable weight on the Letter of Undertaking filed by Counsel for the applicant at the commencement of the hearing, but is of the view that a restriction having the same effect would be more appropriate. That restriction could only be deleted or amended with the consent of the Commission, which must be satisfied that any change would be in the public interest.

It is ordered, therefore, that the application of Canadian Pacific Express & Transport Ltd., published as No. 3938/86, be and it is hereby granted in the following manner:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, Route or Territory:*
General freight in parcels (individual parcels not to exceed 75 lbs. in weight).	Any individual or company.	(a) Between points accessible by public highways within the Province of British Columbia; (b) From points in Licence District 21 transported to the B.C./Alberta border: and vice versa.

Restrictions:

1. Service provided for pursuant to this clause is not to exceed a weight limit of 75 lbs. (34.02 kg) for each parcel being transported.
2. This clause is for the exclusive use of Canpar, a division of Canadian Pacific Express & Transport Ltd. Canpar is not to solicit freight for or provide service to Canadian Pacific Express & Transport Ltd. under this clause.
3. This clause will remain in effect only so long as Canpar and Canadian Pacific Express & Transport Ltd. remain under the same corporate control.

It is further ordered that the applicant and the objectors, Loomis Courier Service Ltd., Canadian Freightways Ltd., and Domke Distributors Ltd., be and they are each assessed $50 in costs to be set off against the security deposits filed by them beforehand. The security deposit filed by Rocky Mountain Transport Ltd. is to be refunded.

Approved by:
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

81-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 3584/86 of H & R Reefer Express Ltd. (formerly Piwek Reefer Express Ltd.)

Before: IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 16th day of September 1987.

ORDER

The application of H & R Reefer Express Ltd., formerly Piwek Reefer Express Ltd. (the applicant), published as No. 3584/86, came before the Motor Carrier Commission for hearing on July 6, 1987. The hearing was concluded on July 10, 1987, after five full days, with final argument being presented on July 15, 1987.

The applicant was represented by Counsel, Mr. A. W. Basile. The three qualified objectors, Domke Distributors Ltd., Clark Reefer Lines Ltd., and Van-Kam Freightways Ltd., were represented, respectively, by a company official, Mr. M. Morice, Counsel, Mr. T. Robbins, and Counsel, Mr. R. W. Macdonald.

Mr. Basile, in presenting the case for the applicant, called three witnesses. Mr. R. K. Shaw, the director in B.C. of sales and operations for the applicant company, testified on its behalf and spoke as well for corporately-related H & R Transport Ltd. (H & R), the parent company. Mr. T. R. Hulme gave evidence on behalf of Pioneer Warehousing Inc. (Pioneer), which had a limited freight motor carrier authority in its own right but, in this case, was the contract shipper specified in the application. Mr. Chenier gave testimony on behalf of his own firm, Remich Marketing and Brokerage Ltd.

Mr. Shaw outlined the operations of the applicant company, reviewing its complement of equipment and the rationale behind the application under consideration. He noted that the applicant was presently providing service to Pioneer under Temporary Operating Permits, but with lesser scope of authority than that being sought through the application. He described the arrangements developed under which the named shipper,

Pioneer, loads trailers, solicits freight, provides some of the vehicles and performs the local P & D services in certain cases. He testified that damage or loss claims are paid to its customers directly by Pioneer on the freight solicited by them.

Mr. Hulme, in his testimony, described the marketing concept introduced by Pioneer, which was referred to in a brochure filed at the hearing as Exhibit No. 17 as "Your One Step Connection". His firm, which operates a number of warehouses located at strategic points in B.C. containing cooler, freezer and dry storage facilities, is able to develop a specific marketing strategy for each of its larger individual customers, which could, depending on the circumstances, involve not only the transportation, storage and distribution of freight, but also the ordering, record keeping and marketing of the product. This complete service, which Mr. Hulme said considerably lowered the end cost of the product to his customers, was available to stores, hotels, restaurants, wholesalers, and institutions, including hospitals.

Delivery service was an intregal part of the concept, said Mr. Hulme, and for that reason had to be under Pioneer's direct control and dispatch. He agreed that a reasonably complete service can be provided by the applicant under the Temporary Operating Permits issued by the Motor Carrier Branch, but indicated the terms were restrictive in that only groceries, food products, and beer could be transported. There were times, he testified, when hardware, drugstore, and other non-food items had to be transported as well, and this handicapped his operation to some extent.

Mr. Chenier, the third witness, spoke of the volumes of freight that he had controlled in the past, but agreed under cross-examination that he was starting business afresh, and now shipped only truck loads of perogies which were distributed by Pioneer who, through their services which he was very pleased with, enabled him to sell his product to more remote areas of the province.

Counsel for the objector, Clark Reefer Lines Ltd., called one witness only, Mr. J. K. Clark, its president and general manager. He testified that his firm, which is B.C. owned and managed, operates a province-wide service and specializes in the movement of food products requiring temperature control, has terminals at various locations and agents in other areas, most of them also equipped with cooler, freezer, and dry storage warehouse facilities. He indicated in his testimony that his firm provides most of the same services as Pioneer, including transportation, storage and inventory control, but excluding the sales functions, and is completely computerized. He ventured the opinion that his firm offers a more complete and better service even than that provided by Pioneer. He expressed the view that his firm had lost accounts to Pioneer in the range of two million dollars' worth of business over the past few years.

He also complained of the activities of H & R/Pioneer which he felt were improper, and reviewed with his Counsel the contents of a file containing an exchange of correspondence (Exhibit No. 6) between his firm and the Motor Carrier Branch, and related material, citing specific examples of motor carrier operations alleged to be in violation of their Conditions of Licence, and/or the *Motor Carrier Act* and the Regulations attached thereto.

Counsel for Van-Kam Freightways Ltd. called no witnesses but, together with Mr. Robbins, vigorously and extensively cross-examined the witnesses testifying on behalf of the applicant, particularly Mr. Hulme, the shipper witness, and presented argument at the conclusion of the proceedings.

Final argument was presented on July 15, 1987. The Commission was advised beforehand that Mr. Morice, who had represented Domke Distributors Ltd. through five days of public hearing, was out of town and would not be available to present final argument.

In his final argument, Mr. Robbins held that the case before the Commission is actually very simple. The question is will the Commission approve the operation by the named shipper in the application, Pioneer, to operate an unregulated freight service anywhere in British Columbia.

He carefully traced the history of the applicant company from the days when it operated under the name Paul Piwek, and quoted the Findings of Fact from an Order of the Commission dated June 25, 1982, in which Piwek was found to have been operating illegally for a period of time and was the recipient of an oral Cease and Desist Order.

Mr. Robbins then went on to a discussion of Exhibit No. 6 filed by his client, Clark Reefer Lines Ltd., which contained copies of a number of complaints filed by his client regarding the operations of the present applicant, which correspondence finally culminated in two Cease and Desist Orders being issued by the Motor Carrier Branch to the applicant.

From Section 1 of the *Motor Carrier Act*, he defined the terms "limited freight-vehicle", "public freight-vehicle", "compensation", and "transportation", and concluded on the basis of those definitions that the application was improperly made, as the applicant is not, in fact, receiving compensation for the movement of freight but the named shipper, Pioneer, is.

Mr. Robbins concluded by suggesting that the Commission ought to make a finding that Pioneer has been providing an over-the-road freight service for compensation without the benefit of licence authority. He asked that the permits under which the applicant is operating be cancelled and the application refused. He suggested, as well, that if Pioneer or the applicant wished to make proper application, they should do so, and then be prepared to substantiate the public need by calling an appropriate number of shipper witnesses.

Mr. Macdonald, in his final argument, commenced by identifying himself wholly with the previous remarks presented by Mr. Robbins.

The granting of the application, he asserted, would be to permit Pioneer to continue to charge compensation for transportation over the roads of the province of any commodities to any place at any price,

without the obligations that are placed on motor carriers, which obligations are designed to protect the shipping public and also to ensure strong economic conditions in the industry.

He pointed out that there is very little difference between the operations of Pioneer and those of a licensed carrier. He noted that Pioneer did not issue Bills of Lading, does not file a tariff, and yet has been conducting transportation for compensation throughout the interior of B.C. without licence authority since March of 1985.

Pioneer, from March, 1985, to February, 1987, performed every function of a licensed carrier. It hired lease operators, it provided trucks under lease, it solicited freight, represented itself as an LTL specialist, it paid claims, it picked up and delivered freight, it loaded trailers, dispatched tractors, and effectively controlled the distribution of goods from Kamloops to all points in the interior of B.C.

In conclusion, Mr. Macdonald asked the Commission to cancel the Temporary Operating Permits issued to the applicant, issue a Cease and Desist Order, substantially censure both the applicant and its shipper supporter, Pioneer, and then refuse the application.

Mr. Basile, in presenting final argument on behalf of the applicant, reiterated his contention that the matter before the Commission was a simple "Limited Freight-vehicle" application, i.e. a carrier providing a service to one named shipper under contract. He disagreed with the assertion of the objectors that Pioneer, the named shipper, is itself in trucking without the benefit of licence authority, and emphasized that the named shipper is in the distribution centre business, and clearly that business includes the pick up and delivery of freight.

Mr. Basile admitted that there was some evidence that the applicant has transported freight contrary to its Conditions of Licence, that the applicant had not been using proper Bills of Lading for freight that it has been picking up for Pioneer, and that the applicant had not filed a tariff to cover some of the services being provided.

He touched briefly on the conflicting testimony at the hearing regarding the date on which a written Cease and Desist Order was received by his client, and advised that Mr. Shaw was prepared to participate in any investigation to clarify that particular issue.

During his final argument, Mr. Basile also expressed some concern with respect to the direction and manner in which the hearing had developed, as well as the type and number of questions being asked of his shipper witness, Mr. Hulme, and other related matters.

Mr. Basile summed up his position by requesting that the application be granted, and cited the following reasons:

1. The applicant is a fit, willing and able motor carrier, which will provide a quality service to Pioneer;
2. The application is for a Limited Freight-vehicle Licence;
3. The applicant and shipper witnesses have demonstrated a real public need and necessity for the service; and
4. It is in the public interest that Pioneer Warehousing Inc.'s "distribution centre" be properly serviced and allowed to grow.

Upon considering all of the available information, including the evidence adduced during five days of hearing, and after reviewing carefully what was said during one-half day of final argument, the Commission has found great difficulty in arriving at an equitable decision with respect to this particular application.

On the surface, this appears to be a simple case of an applicant seeking limited freight authority to transport freight for a named shipper under contract, and such an application would normally be routinely dealt with, but because of the issues involved (including the active management role played by the named shipper, Pioneer) some very complex and difficult questions arise.

Is H & R Reefer Express Ltd. the applicant, or as suggested by the objectors, is it really Pioneer? Is Pioneer, which appears to perform all of the major functions of a freight carrier, in reality a carrier operating without a motor carrier licence? Or is Pioneer a genuine distribution centre which, because of the services it provides, must have complete and direct control over its named carrier?

The Commission is frankly amazed and appalled by the arrangements entered into by the applicant with respect to transportation services which are largely provided by Pioneer, the shipper. The Commission feels that the applicant has clearly relinquished its responsibilities as a licensed motor carrier to Pioneer in what appears to be a highly improper arrangement.

Strong consideration was given by the Commission to the appropriateness in the circumstances of instituting a Show Cause hearing with respect to the operations of Pioneer, but it was decided that the existing intolerable situation could better be corrected through other means. To this end the Commission has decided to defer its decision for a period of up to one year, during which time the applicant and the named shipper are directed to get their transportation functions in order.

Accordingly, the Motor Carrier Commission orders that:

(a) Pioneer Warehousing Inc., which has limited freight-licence authority in its own right, restrict its transportation business to those services that it is specifically authorized to provide, and cease and desist from engaging in any other trucking activity which requires motor carrier licensing;

(b) H & R Reefer Express Ltd., the applicant in these proceedings,

(i) take over the active management of its transportation activities, in particular insofar as its relations with Pioneer Warehousing Inc. are concerned;

(ii) file appropriate tariffs or contracts for the services it provides for Pioneer Warehousing Inc., and see that Bills of Lading are completed for each shipment transported;

(iii) govern its operations in full conformity with the requirements of the *Motor Carrier Act* and Regulations;

(iv) report each month to the Motor Carrier Branch on the service it provides to Pioneer Warehousing Inc., including the numbers of shipments transported by weight and by number, the rates charged individually and in total, together with copies of Bills of Lading or acceptable documentation;

(v) cease and desist from providing any transportation services not clearly authorized by its motor carrier licence authority and Conditions of Licence.

(c) The Superintendent of Motor Carriers is directed to closely monitor the operations of H & R Reefer Express Ltd. to the extent felt necessary and report its findings every three months to the Motor Carrier Commission.

During the interim period until the Commission renders its final decision, the applicant in these proceedings, H & R Reefer Express Ltd., on request, will be granted Temporary Operating Permits in the terms of the application, *provided that its operations are conducted in a satisfactory manner in keeping with its licence authority.*

It is further ordered that H & R Reefer Express Ltd. be and it is assessed twenty-five hundred dollars ($2,500) in costs to be paid to the Motor Carrier Commission forthwith, less the security deposit of $50 filed by them prior to the hearing.

It is further ordered that the three objectors who participated in the hearing be and they are hereby each assessed fifty dollars ($50) in costs, to be set off against the security deposits filed by them beforehand.

Approved by:
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

91-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of a Show Cause Hearing pursuant to Section 9 of the *Motor Carrier Act;* and in the Matter of Prairie Freight Systems Inc., respondent.

Before: GERALD M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner.*

Dated the 15th day of October 1987.

ORDER

The hearing at which Prairie Freight Systems Inc. (the respondent) would be given the opportunity to Show Cause why all of the licences issued to it should not be cancelled, was convened by the Motor Carrier Commission on September 17, 1987.

The respondent had been notified of the hearing by registered letter in the manner prescribed by Section 43 (2) of the *Motor Carrier Act* and, at the same time, supplied with particulars of the violations alleged to have been committed.

The respondent was represented by Mr. L. Mauws, the sole shareholder of the respondent company. He was assisted by Mr. Max Orlick, president and general manager of Gramax Transportation Services Ltd.

Counsel, Mr. A. W. Basile, was retained by the Commission to review and present the evidence with respect to the alleged violations and to present summation at the conclusion of the hearing.

Following a brief opening address, in which Mr. Basile generally outlined the case against the respondent, which included the transportation of goods for the public under a limited freight vehicle licence and also providing certain transportation services for persons or firms without authority to do so, he filed as Exhibit No. 2 additional material in the form of copies of Bills of Lading, Conditions of Licence and related documentation generally supporting the charges against the respondent.

Following a recess, during which the respondent's representatives were given the opportunity to carefully examine the documentation filed, Mr. Mauws under oath admitted to the violations set out in Exhibit No. 2.

Mr. Mauws then made a further statement and answered questions, both from the Commission and from Mr. Basile, regarding the serious financial situation facing the respondent company, which is in debt for approximately $400,000. He indicated, as well, that while he was a businessman, he was not an experienced trucker. He testified that he was not completely aware of the extent of the illegal operations of the company,

but had thought it was operating at times within a "grey area", as far as authority was concerned. He noted as well that there were strong financial pressures on the company and its officers to transport as much freight as possible in order to meet its financial obligations. In concluding, Mr. Mauws agreed again under oath that 54 of the 87 alleged violations were indeed completely illegal activities and contravened the terms of the licence and Conditions of Licence issued by the Commission.

In final argument, Mr. Basile noted that the respondent had admitted to 54 illegal movements of freight, for which there was no excuse, and that the trucking industry was looking for the Commission to make a strong, positive statement regarding violations of the *Motor Carrier Act* and Regulations. The industry was aware that the hearing had been scheduled and would be watching carefully the Commission's decision. He went on to say that the Commission has a responsibility to deal sternly with this particular carrier and recommended that its licence authority be completely cancelled.

Failing that, he suggested that the Commission withhold its decision until after a decision is handed down by the Alberta Motor Transport Board, which had earlier scheduled a similar Show Cause Hearing.

Mr. Basile recommended further that if the Commission was not inclined to cancel the authority entirely, fines should be assessed on the basis of $250 for each of the 54 violations admitted to. He also suggested that further penalties be imposed, including the monitoring of the operation for a period of time and requiring the officers of the company to make themselves fully aware of the *Motor Carrier Act* and the Regulations attached thereto.

In his final argument, Mr. Mauws noted that there was very little he could say after the admissions he had made, but he would ask the Commission to allow the company to continue to operate, as he felt it could provide a good service with the assistance of Mr. Orlick, who was a highly experienced and respected trucker. If fines of the magnitude suggested by Mr. Basile were indeed levied, Mr. Mauws indicated that the Commission might as well cancel the authority, as that amount would put them out of business.

The Commission, after carefully considering all of the evidence presented, has concluded that because of the many serious violations of the *Motor Carrier Act* and Regulations committed by the respondent as well as its precarious financial position, it would not be in the public interest to permit this particular licence authority to remain in force.

Accordingly, the Motor Carrier Commission orders that all of the licences issued to and in the name of Prairie Freight Systems Inc. be and they are hereby *cancelled*.

It is further ordered that any rights or privileges conferred on the said respondent by the granting to it of licence authority be and they are hereby extinguished.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

101-87

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, R.S.C. 1970, Chapter M-14; and in the Matter of Application No. 734/87 of Vernon Moving & Storage Ltd.

Before: GERARD M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner*.

Dated the 13th day of November 1987.

ORDER

The hearing of the application of Vernon Moving & Storage Ltd. (the applicant), published as No. 734/87, came before the Motor Carrier Commission for hearing in Vernon, B.C., on October 27, 1987.

The applicant was represented by its owner/manager, Mr. J. Chapman. The sole objector present, Mountain Pacific Transport Ltd., was represented by a company official, Mr. R. W. Reid. Domke Distributors Ltd., which had filed its $50 security deposit, was not in attendance at the hearing and was not represented.

At the outset of the hearing, Mr. Reid advised the Commission that his firm was prepared to withdraw its opposition to the application, provided that it was amended by the addition thereto of a prohibition against tacking through Licence Districts 14, 14A and 15, in connection with transportation services provided under Clauses 3, 4 and 6.

Mr. Chapman then formally moved to amend the application in that manner, which motion was granted by the Commission, after which Mr. Reid left and did not participate further in the hearing, thus leaving the application, as amended, unopposed.

Mr. Chapman then proceeded to present his case, during which he filed additional support material and responded to the written objections of Domke Distributors Ltd., which he felt were not truly valid. He then went on to draw the attention of the Commission to the fact that many of the changes were of a housekeeping nature, intended to clarify and define certain changes that had taken place in the Okanagan Valley with respect to boundary expansions to the cities of Vernon and Kelowna, which resulted in a certain overlapping of licence districts, the descriptions of which had not been updated since the late 1940's.

The Commission, in considering all of the information before it, including that resulting from staff investigations as well as that brought out at the hearing, has concluded that the application ought to be generally granted *as amended*, but with the addition thereto of suitable restrictions and further modifications.

It is ordered, therefore, that the application of Vernon Moving & Storage Ltd., published as No. 734/87, be and it is granted, as amended, but with the following changes:

(a) The term "charter trips" is to be added to the commodity descriptions of Clauses 4, 5 and 6;

(b) The words "or boundary thereof" are to be deleted from the area description of Clause 3;

(c) The application to delete restrictions (preventing the pick-up of freight for delivery in B.C.) attached to Clauses 4, 2 (c), and 6 (b) of the applicant's existing Conditions of Licence is *refused*;

(d) The destination and/or originating points of Alberta, Saskatchewan or Manitoba, are deleted from Clause 4;

(e) The addition to all extra-provincial clauses of appropriate restrictions against pick up of freight in B.C. for delivery in B.C.;

(f) The substitution of standardized wording and form in the resultant Conditions of Licence, but without change to the intent or scope of the application as granted.

It is further ordered that the applicant and the sole objector present at the hearing, Mountain Pacific Transport Ltd., be and they are each assessed costs in the amount of $50 to be set off against the security deposits filed by them beforehand.

It is further ordered that the security deposit filed by Domke Distributors Ltd., who did not appear and was not represented at the hearing, be and it is hereby forfeit and is not to be returned.

Approved by:

GERARD M. MORRIS
Chairman

IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:

JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

4-88

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of a review by the Motor Carrier Commission of its decision concerning the application of Graham Donald Moxon and Gerod Floyd d/b/a Go West Tours, published as No. 1577/87.

Before: G. M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner*.

Dated the 19th day of January 1988.

ORDER

The application of Graham Donald Moxon and Gerod Floyd d/b/a Go West Tours (the applicant), published as No. 1577/87, which had been refused, came before the Motor Carrier Commission for review on January 11, 1988.

The two partners represented themselves at the review hearing, while the sole objector present, International Stage Lines Inc., was represented by a company official, Mr. R. McMynn.

Messrs. Moxon and Floyd, in presenting their case, first highlighted the rapid expansion taking place in the Whistler/Blackcomb area, the construction of new hotels, and other major developments, which overall are expected to result in a vast increase in the number of visitors travelling to and from that general area, not only during the ski season, but year round as well.

They then reviewed the additional support material filed by them, their business plan, cost and revenue schedule, and other research, which they felt supported the need for a transportation service for a particular segment of the population including university students and other young travellers.

In speaking to the portion of the application dealing with service to the Long Beach area on Vancouver Island to be provided weekends in the summer months, they also reviewed the support material filed, as well as their discussions and arrangements for co-operation with various businesses located in the Ucluelet/Tofino area, and the need perceived for additional bus service to that area.

Mr. McMynn, in objecting to the application, suggested that the applicant might be more interested in operating a travel agency as a tour operator and providing charter service, rather that the scheduled bus service being applied for. He also expressed the view, after considering the cost and revenue schedule filed by the applicant, that their estimate for maintenance of the vehicle they proposed to use was rather low compared to his actual experience in maintaining his company's vehicles.

The Commission, after carefully reviewing all of the written material submitted by the applicant, and after considering all of the evidence and testimony presented at the hearing, has concluded that its original decision refusing the application ought to be rescinded, and the application granted.

Accordingly, the Motor Carrier Commission orders that its decision refusing the application of Graham Donald Moxon and Gerod Floyd d/b/a Go West Tours, published as No. 1577/87, be and it is hereby rescinded.

It is further ordered that the said applicant be and it is hereby granted one new Limited Passenger Vehicle Licence to operate a twenty-four (24) passenger bus in the manner applied for, but with further pick-up points allowed at Lost Lake bus stop in Vancouver, Park Royal Shopping Centre in West Vancouver, and Caulfeild Shopping Centre in West Vancouver, provided that permission for stops at these points is secured from the appropriate authorities. Any licences to be granted to this said applicant are subject to compliance by it beforehand with the established mandatory licence requirements of the Motor Carrier Branch.

Approved by:
G. M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

8-88

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, S.C. 1987, Chapter 35; and in the Matter of Application No. 1341/87 of Glenncoe Transport Ltd.

Before: GERARD M. MORRIS, *Chairman* and IAN W. CRAIG, *Commissioner*.

Dated the 25th day of January 1988.

ORDER

The application of Glenncoe Transport Ltd. (the applicant), published as No. 1341/87, which had both extra and intra-provincial components, came before the Motor Carrier Commission for hearing on January 18, 1988, and was concluded on January 19, 1988.

A number of questions were raised at the commencement of the hearing, regarding the procedures to be followed, the jurisdiction of the Commission, and compliance by the Commission as well as the applicant with various requirements of the *Motor Vehicle Transport Act*, 1987, the Regulations attached thereto and the Policy and Procedural Guidelines issued by the Commission under date of December 14, 1987.

After a full discussion of these issues and several brief adjournments, the Commission advised those present that it felt it had the jurisdiction to proceed and proposed to do so. The Commission also reiterated its earlier stated intention that the extra-provincial portion of the application would be heard first under the reverse-onus principle, following which the intra-provincial component of the application would be proceeded with under the procedures set out in Regulation 4.18 of the *Motor Carrier Act*.

The applicant company was represented by Mr. Glenn Coe, its president.

The extra-provincial portion of the application, as well as a segment of the intra-provincial application which was subject to changes sought to existing Clause 1, was objected to by Byers Transport Ltd., Canadian Pacific Express and Transport Ltd., and Canadian Freightways Ltd., who were represented at the hearing by Counsel, Mr. Tobin Robbins. Also objecting to that intra-provincial portion of the application was Rocky Mountain Transport Ltd., who was represented by its president, Mr. G. Sengotta.

Mr. Robbins called three witnesses in making his presentation, one company official from each of his clients. He also filed books of exhibits on their behalf, the contents of which were reviewed during the testimony of the witnesses.

Generally the witnesses took the position that additional service of the nature proposed was not required and might cause the three objectors, each of which offer a Class 1 scheduled service, to reduce or even eliminate some of those services, in particular to smaller, more remote communities, which would be detrimental to the public interest. Mr. Sengotta of Rocky Mountain Transport Ltd. did not call any witnesses, but made a statement respecting this particular section of the application in relation to the manner in which it was published.

The proceedings adjourned after hearing the three witnesses for the objectors, and at its resumption on January 19, 1988, Mr. Robbins advised that his presentation on behalf of the objectors was now completed.

Mr. Glenn Coe then announced that he wished to amend the application under consideration in the following manner:

> The term "charter trips" was to be added to the commodity description in that section of the application seeking to amend existing Clause 1, and the words "any individual or company" were to be deleted therefrom, to be replaced with "one individual or company only at any one time".

The Commission formally granted the motion to amend, at which time the qualified objectors, Rocky Mountain Transport Ltd., Byers Transport Ltd., Canadian Pacific Express and Transport Ltd., and Canadian Freightways Ltd., indicated that they no longer objected to the application as amended and did not participate further in the proceedings.

The hearing was briefly adjourned at this point, then reconvened pursuant to the procedures set out in Section 4.18 of the Regulations attached to the *Motor Carrier Act* for consideration of the remaining intra-provincial component of the application, which was for a new heavy-hauling clause.

Qualified objectors, Len's Lift Truck Delivery Ltd. and Lomak Transport Corporation, were represented respectively by a company official, Mr. L. Kane, and Counsel, Mr. L. R. Peterson, Q.C., who was present on the first day of the hearing, and Associate Counsel, Mr. G. Fulton, who acted on the second day.

Mr. Glenn Coe called no witnesses, but took the stand himself and gave sworn testimony, in which he reviewed in general terms the history of his firm, its manner of operation, its equipment and, in particular, the specialized equipment operated. He spoke of the difficult times his company and other carriers encountered in the early 1980's, and advised that he reacted by working harder, diversifying his operation, and succeeded in increasing his company's sales.

Mr. Coe also discussed the additional authority being sought and how it would fit in with his plans.

It was noted during Mr. Coe's testimony that the applicant company could already provide many of the services now being sought under the new heavy-hauling clause by way of the existing authority contained in Clause 1 (general freight) as well as Clause 3.

Mr. Coe indicated that he felt there was no real need for support, but suggested that he could have had many witnesses attend if required. He indicated, as well, that he did not intend to actively solicit business in the Lower Mainland, but would, of course, respond to calls from that area.

Mr. Fulton then cross-examined Mr. Coe, first, with respect to certain remarks contained in a letter from him concerning the need to provide jobs in B.C., the specialized equipment operated and his statement that the applicant was B.C.-owned, as in fact were the two objectors then present, and, second, on other aspects of the application, including the lack of support and the absence of any shipper witnesses.

Both of the qualified objectors presented company officials as witnesses, who briefly described their own operation, the difficulties encountered in a crowded transportation marketplace and the lack of demand for heavy hauling due to what they felt was excessive competition.

Summing up for his client, Mr. Fulton noted the written comments made by the Commission in previous decisions with respect to applicants who did not submit support or call witnesses at hearings of their applications, and, in closing, asked that the application be refused on the grounds that no need for the service had been demonstrated, no evidence of lack of service had been presented, and no proof of inadequate service had been entered.

Mr. Kane generally concurred with Mr. Fulton's remarks and joined him in asking that the application be refused.

Mr. Coe, in his summation, indicated that he was concerned primarily with the interior of B.C., and not the Lower Mainland or Vancouver Island. He asked that the application be granted.

The hearing was then concluded with the Commission thanking those that took part in this first hearing conducted at least partially under the rules set out by the new *Motor Vehicle Transport Act*, 1987, and Regulations attached thereto.

With respect to the amendments sought to existing Clause 1, the Commission notes, in coming to its decision, that the objectors who appeared at the hearing withdrew their opposition in the face of the amendments to that portion of the application which were put forward at the hearing by the applicant. The Commission can see no evidence that the granting of this component of the application would be detrimental to the public interest.

Accordingly, the Motor Carrier Commission orders that the portion of the application seeking to amend existing Clause 1 be and it is hereby granted as amended at the hearing, which would result in Clause 1 reading as follows:

Commodities to Be Carried:	*For Whom to Be Carried:*	*Area, District or Territory:*
General freight (charter trips)	One individual or company only at any time.	(a) From points in Licence Districts 4, 5 and 6, delivered to any point in B.C.: or vice versa; (b) From any point in B.C. transported to any boundary of B.C.: or vice versa.

Restriction — Re 1 (b)

Freight shall not be picked up in B.C. for delivery in B.C.

Upon considering the application for a new heavy-hauling clause, the Commission is fully aware that a good portion of those services can already be provided by the applicant under certain existing authority discussed herein. The Commission does feel however, that in light of the remarks made at the hearing by the applicant, the extensive authority sought is not required and would not, in fact, be entirely utilized. The Commission has concluded, therefore, that this particular portion of the application ought to be only partially granted.

Accordingly, it is ordered that the heavy-hauling portion of the application of Glenncoe Transport Ltd., published as No. 1341/87, be and it is hereby granted, but with the following restriction:

Restriction:

Service point to point on Vancouver Island or within Licence Districts 14, 14A and 15, or between Vancouver Island and Licence Districts 14, 14A and 15, under this Clause is *not permitted*.

It is further ordered that the applicant and the objectors who participated in the hearing be and they are hereby each assessed costs in the amount of $100, to be set off against the security deposits filed by them beforehand.

It is further ordered that the security deposits filed by Arrow Transportation Systems Inc. and Dolphin Transport Ltd., who did not appear at the hearing and were not represented, be and they are hereby forfeit and are not to be returned.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

PROVINCE OF BRITISH COLUMBIA
MOTOR CARRIER COMMISSION

14-88

In the Matter of the *Motor Carrier Act*, R.S.B.C. 1979, Chapter 286, and Amendments Thereto and Regulations Thereunder; and in the Matter of the *Motor Vehicle Transport Act*, S.C. 1987, Chapter 35; and in the Matter of Competing Applications for Motor Carrier Licence Authority of: (a) Fraser Wharves Ltd., published as No. 1243/87; and (b) Annacis Auto Terminals Ltd., published as No. 1654/87.

Before: GERARD M. MORRIS, *Chairman*, IAN W. CRAIG, *Commissioner* and GEORGE MUSSALLEM, *Commissioner*.

Dated the 10th day of February 1988.

ORDER

The hearing of the applications of Fraser Wharves Ltd. (Fraser), and Annacis Auto Terminals Ltd. (Annacis), published respectively as Nos. 1243/87 and 1654/87, came before the Motor Carrier Commission for hearing on February 1, 1988, and was completed on February 4, 1988.

Fraser was represented by Counsel, Mr. Paul B. Joyce, and Annacis by Counsel, Mr. D. LaCharite. Auto Haulaway (West) Ltd., now Auto Haulaway Inc., (Haulaway), a qualified objector to both applications, each of which had extra- and intra-provincial components, was represented by Counsel, Mr. R. W. Macdonald. Both applicants were seeking authority through their applications to transport motor vehicles generally to all points within British Columbia and also extra-provincially to borders of the province for furtherance.

After preliminary matters had been disposed of, and after a presentation having been made by Mr. Macdonald with respect to his views on procedures to be followed at public hearings under the *Motor Vehicle Transport Act*, 1987, the effect of the manner in which applications for licence authority are published, and other related matters, the Commission proceeded to the consideration of the extra-provincial component of the applications.

Part 1 — Extra-Provincial

At the commencement of the actual hearing, Mr. LaCharite filed as Exhibit No. 4 a letter from his client, Annacis, withdrawing from consideration the extra-provincial portion of its application, published as No. 1654/87. This withdrawal, which was approved by the Commission, left only the extra-provincial component of the application of Fraser to be heard under the reverse onus procedures.

Mr. Macdonald then made his presentation in opposition to the application of Fraser. He called two witnesses and filed a number of exhibits, including a report on the Economics of Transporting Automobiles from Vancouver, B.C., a corporate exhibit book, assorted statistical data, and other related material.

The first witness was Professor G. Chow, Assistant Professor, Transportation and Logistics from the University of British Columbia, who testified regarding the analysis he had been asked by Haulaway to provide, respecting the impact on the auto hauling industry if the applications under consideration (originally three but now reduced to one) were granted. The results of his study and analysis were compiled in Exhibit No. 7. His report and his testimony focused on four possible simulated cases of market fragmentation, each of which, in his opinion, would result in losses of efficiency, increased costs, and/or slower deliveries.

Mr. B. A. Price, a vice-president of Haulaway, the second witness, first testified regarding his long experience in the auto hauling business, which began in 1955 as an owner/operator, and his subsequent involvement in management positions. He also reviewed the history of the troubled auto hauling industry in B.C. and other parts of Canada, with reference as well to the U.S. experience, which resulted in only eleven major automobile carriers remaining in business there, with three of them monopolizing 80% of the auto distribution business. He testified as to the financial difficulties various auto carriers had encountered in this province in the years gone by, the subsequent failures, take-overs and amalgamations, which resulted in his firm achieving dominance in the B.C. market, both with respect to import and domestic automobiles. All of this, in Mr. Price's view, indicated that the need for efficiency and service to a very limited number of shippers (the automobile manufacturers) continued to dictate concentration of the auto hauling business in fewer and fewer hands.

Both Professor Chow and Mr. Price stated in their testimony that automobile transportation by truck was one facet of trucking which in the interests of shippers and market efficiency was naturally best served under monopoly or near monopoly conditions. They claimed that the licensing of additional carriers would result in the fragmentation of a limited market leading to a less efficient operation and a return possibly to the same difficulties which occurred in years past with too many carriers competing in a limited marketplace.

Mr. Joyce called one witness in presenting the case on behalf of Fraser in the person of Mr. R. K. Anderson, its operation manager, who generally expressed the view that competition would result in better service. He noted that his firm, while having no experience in the transportation of automobiles, nevertheless was in a good position to provide service to vehicles arriving from off-shore at Fraser's extensive terminal facilities. He indicated that his firm did not intend to purchase its own running equipment, but instead would rely on owner/operators with their own tractors and trailers.

He also reviewed the support material filed by Mr. Joyce and explained his company's plans to operate as outlined in Exhibit No. 11 in providing service to extra-provincial points.

Mr. Joyce, in his summary, sought to draw some comparisons between Haulaway and B.C. Hydro, each of which enjoys monopolistic positions, and put forward the view that competition would be in the public interest and keep the present operators on their toes. He noted that the onus is on the objector to show that the granting of the application would not be in the public interest and he did not feel that they had done so. He suggested that if the Commission felt that the application for forty vehicles was too extensive, then consideration might be given to granting his client authority to operate fewer vehicles than the number applied for.

Mr. Macdonald, in his summation, reiterated his client's position that a natural monopoly situation had arisen in this industry for sound economic reasons. He stated it was true that monopolies are capable of abuse, but the Commission had no evidence before it of any abuses in this case. The industry is disciplined and responsible and is providing an excellent service to its customers, but may not be able to continue to do so if further licences are granted. He pointed to the example of near monopolies in the auto hauling industry which exist in various Canadian provinces, including the Maritimes and parts of Quebec and Ontario, as well as the prairie provinces. He referred to the extremely low operating ratios reported by Haulaway and the fact that its rates have risen less than the cost of living over the past few years and concluded his summation by asking that, in the public interest, the application of Fraser for extra-provincial authority be refused.

A brief recess was called at the conclusion of the hearing of the extra-provincial portion of the application referred to herein.

Part 2 — Intra-Provincial

The hearing of the intra-provincial portions of the said applications was then called to order. The Commission, with the consent of the representatives of all of the parties concerned with the applications, advised that the exhibits filed at the hearing of the extra-provincial portions of these applications, and the testimony heard which had a bearing on the matters now under consideration, would be incorporated by reference into the record of these proceedings.

At these proceedings, Fraser Wharves Ltd. (Fraser) and Annacis Auto Terminals Ltd. (Annacis) were represented respectively by Counsel, Messrs. Paul B. Joyce and D. T. LaCharite. The sole objector present, Auto Haulaway Inc. (Haulaway), which opposed both applications for intra-provincial authority, was represented by Counsel, Mr. R. W. Macdonald.

Mr. Joyce, in presenting the case for Fraser, called one witness, Mr. R. K. Anderson, who with Counsel reviewed the operational plan for distribution within the province as outlined in Exhibit No. 14, particularly with respect to service to the Lower Mainland, Vancouver Island and the B.C. Interior.

Following cross-examination of this witness by Mr. LaCharite, who by virtue of Regulation 4.13 was deemed to be an objector, and by Mr. Macdonald, Mr. Joyce announced that his case was now complete.

Mr. LaCharite, on behalf of Annacis, called two shipper witnesses and one corporate witness. Mr. J. E. Friesen, owner of Vancouver Auto Auctions, which moves an average of 700–1,000 vehicles per week,

indicated that he supported the application, but would continue to use the services of Haulaway, about which he had no complaints. Mr. W. P. Haughian, import manager of Nissan Automobile Company (Canada) Ltd., which is corporately related to this applicant, supported this particular application, but indicated as well that he had no problems with the service provided by Haulaway, and would continue to use them, but some business would be offered to Annacis, who had offered to transport less than truckload lots.

Mr. N. A. McGill, supervisor of the truckload division of Annacis, testified as a corporate witness. He noted that Annacis already has motor carrier licences and is merely asking for an extension of its existing authority. Annacis operates four vehicles, and if the application is approved would probably add one more. Mr. McGill was experienced in the transportation business, having been an owner/operator for a company that had been taken over in 1987 by the principal objector at these proceedings. The auto hauling business is very seasonal with high peaks, he testified, and as the facilities are expanded, more and more vehicles would be unloaded, prepared, stored, and delivered from the site occupied by Annacis for the various automobile manufacturers, thus giving the applicant the opportunity to provide more service. Mr. McGill noted that they had had some requests for service in the past when Haulaway was extremely busy.

Following cross-examination of these witnesses by Mr. Joyce and Mr. Macdonald, Mr. LaCharite advised that the case for Annacis was now complete.

Mr. Macdonald then presented one witness, Mr. B. A. Price, who again testified regarding the intra-provincial service that was now provided to B.C. points, and the efficient manner in which that service is accomplished. He also reviewed the failure of another auto carrier business which had experienced extreme financial difficulty in 1987 and was subsequently purchased by the firm Mr. Price represented. That left some 35 owner/operators without a source of income and many of their vehicles are still sitting idle. He confirmed the position taken earlier that more competition would result in the fragmentation of the available freight and would again probably result in financial difficulties within the industry.

Following cross-examination of Mr. Price, carried out on behalf of both of the applicants, Mr. Macdonald indicated that his case was now completed.

In presenting final summation, Mr. Macdonald put forward the view that the concentration of the market to haul automobiles to one company was not necessarily bad, provided that the situation was not abused. In this case there was no evidence of abuse. Rates were held at a most reasonable level, profits were not excessive, wages paid employees were not too high, the operation was efficient, service levels were maintained at a high level, and there were no complaints from customers regarding that service. Haulaway was completely responsive to its customers' needs. If the applications under consideration are granted, each applicant would capture a certain segment of the traffic arriving at their particular terminals, thus resulting in a fragmentation of the freight available, which inevitably would lead to the same kind of competitive situation present last year which resulted in the natural concentration of service being acquired by Haulaway. In closing, he asked that both applications be refused, which refusal he felt would be in the public interest.

Mr. Joyce, in his summation, expressed surprise that Counsel for Haulaway would speak in favour of a near monopoly. He noted that everyone in the industry strives for an efficient operation. If the applications are not granted the transportation industry would be getting a message that monopolies are acceptable under certain circumstances. Mr. Joyce asked that the application of his client, Fraser, be granted, but if the Commission desired to do so, for fewer vehicles than the total of forty originally applied for.

Mr. LaCharite summed up, first as an objector to the somewhat similar application of Fraser, which applicant he felt had not submitted evidence of public need and necessity. He also cited the decision of the Commission with respect to Vancouver Courier Service Ltd., in which it said "Public interest is an essential ingredient in the granting of licence authority to motor carriers, and any applicant displaying indifference to that public interest does nothing to justify expansion or granting of licence authority."

Secondly, speaking with respect to his own client's application, Mr. LaCharite indicated that he was also somewhat surprised by Mr. Macdonald's position in this matter vis-a-vis monopolies. Mr. LaCharite noted that his client is a good corporate citizen, is an experienced carrier, and already has licence authority, but is seeking an extension of that authority to better respond to shippers' needs. The applicant has considerable capital investment in its existing transport business, and has operated within the confines of its existing authority. There is an assurance of additional freight, particularly in busy times, as indicated by the support of the two shipper witnesses. Mr. LaCharite concluded by asking that the application be granted as filed.

Decision — Extra-Provincial

The Commission has considered the matters before it most carefully, including all of the exhibits filed, the testimony presented, and summations by Counsel for the applicant and the objector. The Commission has given particular emphasis to the interests of the users of the transportation service of auto haulers, and has concluded that in the existing situation, the granting of the application of Fraser Wharves Ltd. would likely be detrimental to the public interest.

Accordingly, the application of Fraser Wharves Ltd., published as No. 1243/87, for extra-provincial authority, be and it is hereby *refused*.

Decision — Intra-Provincial

The Commission has carefully considered the cases provided by the two applicants, as well as the presentation of the objector to both of these applications, including the exhibits filed, the testimony of witnesses, and the summaries of Counsel.

In adjudicating the application of Fraser Wharves Ltd., the Commission is of the opinion that very scant support was filed for such an extensive application from a company with no actual experience in the auto hauling business. The material submitted in support was indefinite, to say the least, and failed to provide sufficient information regarding the proposed operation by the applicant and the procedures to be used in providing adequate service.

Accordingly, the Commission orders that the application of Fraser Wharves Ltd., published as No. 1243/87, for intra-provincial authority, be and it is hereby *refused*.

In adjudicating the application of Annacis Auto Terminals Ltd., the Commission noted that the applicant company is presently licensed, is operating within the confines of its licence authority, and has applied for an extension of its existing authority. A reasonable indication of support has been presented, both by way of documentary evidence and in viva voce form. The Commission is of the view that it would be in the public interest to have available an alternative experienced service, which could be utilized in times of peak demand.

Accordingly, the Commission orders that the application of Annacis Auto Terminals Ltd., published as No. 1654/87, for intra-provincial authority, be and it is hereby granted as applied for, but with a restriction added thereto limiting the service provided to a maximum number of six vehicles.

It is further ordered that:

(a) the $100 security deposit filed by Tritow Systems Ltd., which subsequently withdrew its application, is forfeit and is not to be returned;

(b) the applicants and objectors who participated in the hearing are each assessed costs in the amount of the security deposits filed by them beforehand, to be set off against those security deposits.

Approved by:
GERARD M. MORRIS
Chairman
IAN W. CRAIG
Commissioner
GEORGE MUSSALLEM
Commissioner

By the Motor Carrier Commission:
JOHN KOSOWICK
Secretary to the Commission

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